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May 31, 1996

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MAY 31 1996

William F. Caton, Secretary
Federal Communications Commission
1919 M Street N.W., Room 222
Washington, D.C. 20554

Re: In the Matter of Impelementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992; Rate Regulation of Leased Commercial Access
(MM Docket 92-266; CS Docket No. 96-60)
Reply Comments of Hispanic Information and Telecommunciations Network, Inc.

Dear Mr. Caton:

Enclosed, on behalf of The Hispanic Information and Telecommunications Network (HITN), are the original and eleven (11) copies of HITN's Reply Comments in the above referenced rulemaking.

If you have any questions about this filing, please let me know.

Sincerely,

Ernest T. Sanchez
Counsel for
Hispanic Information and
Telecommunications Network

Enclosure

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MAY 31 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992	)	**MM Docket 92-266**
Rate Regulation	)	

REPLY COMMENTS
OF
HISPANIC INFORMATION AND TELECOMMUNICATIONS NETWORK, INC.

Ernest T. Sanchez
Its Attorney

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Suite 200
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May 31, 1996

SUMMARY

The Hispanic Information and Telecommunications Network, Inc. ("HITN") files Reply Comments in the above-captioned proceeding. In these Reply Comments it points out that the opposition to the Commission's proposed rate formula and rules by cable operators and their affiliated program networks tends to be little more than an attack upon the underlying statutory policies that the Commission is required to effectuate. The more likely the Commission's proposal is to provide true and effective access, the greater the opposition by these entrenched monopolies and their affiliates. It is the probably effectiveness of the formula and rule that they object to and, for this reason, their comments are not responsive to the Commission's proposal.

Further, objections of these industry parties to leased access requirements fail to take into account both the general public interest jurisdiction and authority of the Commission and the special scrutiny and remedial standards that are permissible when the law deals with a regulated or other monopoly.

HITN also supports and adopts the positions taken by the Center for Media Education and the Public Broadcasting Service that existing telecommunications policies and the overall public interest support granting preferential rates and a separate set aside for non-profit and educational programming sources. Precedent exists for providing interconnection services for non-profit and educational programming throughout the telecommunications industry and history of regulation.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992	)	**MM Docket 92-266**
Rate Regulation	)	

REPLY COMMENTS
OF
HISPANIC INFORMATION AND TELECOMMUNICATIONS NETWORK, INC.

The Hispanic Information and Telecommunications Network, Inc. ("HITN"), by and through its counsel, files these Reply Comments in the above-captioned rulemaking proceeding of the Federal Communications Commission.

I. INTRODUCTION

1. In its initial Comments, HITN supported the Commission's proposal to replace its current "highest implicit fee" formula as the method for setting cable leased access rates, but expressed concern that fees that would be set using the proposed "cost/market rate" replacement formula might also be too high to permit access, as a practical matter, for most non-profit educational and minority programmers. HITN pointed out that a market which has heretofore been little more than a monopoly bottleneck, characterized by prohibitively high barriers to entry, may require more specific corrective remedies before it could be expected to function like a normal competitive market. HITN, therefore, strongly supported a separate subset of set-aside channels and a lower rate formula for not-for-profit entities as an effective means to achieve the Congressional policy favoring competition and diversity in sources of cable programming.

2. HITN also urged the Commission to strengthen its regulatory requirements to require prompt and complete information disclosure from cable systems to would-be leased access users, and to develop and enforce effective reporting, on at least a quarterly

basis, by cable operators. HITN also supported requirements for cable operators to provide billing and collection services for leased access users, including non-profits, and urged the Commission to maintain strong and effective enforcement and dispute resolution mechanisms to protect programmers who might otherwise continue to suffer discrimination or stonewalling by cable operators.

3. HITN has reviewed the Comments filed by other parties to this Rulemaking proceeding. It responds in these Reply Comments primarily to the views expressed by three sets of commenters: MSOs and other cable operators; established major cable program networks (nearly all of which are affiliated with an MSO); and its fellow non-profit entities, such as PBS and the Center for Media Education. These Reply Comments of HITN will focus particularly upon responding to the comments of these three categories, as well as the Comments filed by the Community Broadcasters Association ("CBA"), the trade association of local low power television ("LPTV") stations.

II. CABLE OPERATORS' OPPOSITION TO THE COMMISSION'S PROPOSED "COST/MARKET RATE" FORMULA IS A THINLY-DISGUISED ATTACK UPON THE UNDERLYING CONGRESSIONAL POLICY TO PROMOTE LEASED ACCESS.

4. HITN is most impressed with the thoughtful Comments filed by the Center for Media Education ("CME"), an entity whose interests appear to be simply to advance the public interest. In providing these Reply Comments, HITN seconds and adopts CME's Initial Comments and adds to the Record of these proceedings the following response to these and other Comments filed by other parties:

A. Opposition to the Proposed Formula Appears to be Based upon the Likelihood That It Might Actually Succeed in Effectuating Congressional Policy in Favor of Leased Access.

5. Comments filed by the MSOs and other cable operators have taken certain uniform, if not actually orchestrated, positions. Each of these entities complains that the Commission's proposed "cost/market rate" formula will have a financially-devastating impact upon cable operators. The dreaded effects postulated by the cable industry will occur, we are told in doomsday terms, not only because rates set pursuant to the formula will be too low, but also because these low rates will lead to a veritable stampede by would-be leased access programmers that would seek to fill the systems' entire set aside with undesirable, competitively worthless leased access programming. What this argument really postulates, if one examines it without the self-serving poor-mouthing, is that cable operators fear that they will no longer be able to avoid their statutory obligations to actually provide access on that 15% of its channels. Cable operators have successfully avoided doing so for so long that they have come to believe that they are entitled to fill their designated set-aside channels with commercial non-leased programming, often from affiliated program sources and networks. As is well known throughout the industry, it has not been unusual for a cable

system, particularly an MSO, to insist upon receiving an equity interest in a potential program source as consideration for providing access to one of its channels. In other words, cable operators have for a long time enjoyed significant profit from ignoring their obligations to provide leased access, they wish to continue to do so, and, if forced to do otherwise, they want to be compensated at a full monopoly-rent basis.

6. The position of the cable operators is basically one of opposition to the underlying statutory policy. To the extent that the Commission's proposed formula is more likely to result in affordable rates for leased access and, thus, more likely to require cable operators to actually provide a set aside channel on a leased basis, the better it serves the goals sought by Congress. But this is the exact basis upon which the cable industry opposes the proposed formula and rules. It is precisely the likelihood that the Commission's proposal will successfully implement Congressional policy that leads the cable operators to oppose it. Furthermore, it is clear from most of their Comments that cable operators believe that, if the law will now really be enforced against them, if they will now be required to lease channels within their designated set aside, they should be rewarded for fulfilling that statutory obligation by being compensated at the highest possible level -- their maximum opportunity cost. That is, their position is that no cable operator should be required to actually provide leased access unless it can charge as much for that channel as it might otherwise receive under the most lucrative financial arrangement possible to a monopolist. Cable operators should always be paid a premium, they argue; otherwise the formula and the rules are unjust. Cox Communications, Inc., expresses this position as follows:

> "Unless the leased access programming is as valuable to subscribers as the programming that it replaces, the system's subscriber revenues will be adversely affected."

(Comments of Cox Communications, Inc., at 13.)

7. But, the position of Cox and the other cable operators is that <u>any</u> adverse effect on cable system revenues that might even theoretically result from leased access requirements is unacceptable. Any burden, they claim, is an "undue burden." Thus, carried to its logical conclusion, what the cable industry is really opposed to is nothing more than the Congressional policy favoring leased access itself. Unfortunately for the cable systems, they already lost this battle in the legislative arena and it is too late to fight battles over the policy underlying the law. Congress has already made the policy decision that leased access will promote the public good; the cable industry, like other telecommunications industries and regulated monopolies, must accommodate itself to that public interest determination. HITN is concerned, along with the Community Broadcasters Association, that the Commission's proposal tends to show undue concern for the financial impact its new formula may have on cable operators and insufficient concern with the Congressional intent to promote diversity. HITN urges the Commission to focus on the latter, particularly since recent events have shown that the cable operators have fully exploited their monopoly position and no longer require protection, if they ever did.

B. Recent Skyrocketing Increases in Cable Operators' Rates to Subscribers Demonstrate the Need for Continued and Close Regulation of Leased Access Rates.

8. The "opportunity costs" that the cable industry wants to recover are based upon essentially unregulated rates that were, in the first instance, determined unilaterally by a monopolist and offered on a "take-it-or-leave-it" basis to leased access users. That is, no cable operator can honestly claim that its leased access rates based upon its alleged "opportunity costs" are market-based because monopolists are not subject to the pressures of market forces. Ironically, on May 15, 1996, the very day these systems filed comments indignantly denying the Commission's allegations of "double billing", Communications Daily reported the most recent Bureau of Labor Statistics data that cable rates to subscribers have increased at more than twice the rate of inflation over the past year.[1] The Washington Post subsequently (May 18, 1996) reported that several cable systems in the D.C. area would increase their rates to subscribers, some by more than 10 - 14%, and on the average, at least two or three times the rate of inflation.[2] The Post article noted that TCI and Time Warner, which together account for "42% of all homes with cable in the United States", had each raised their rates, nationwide, by about 10%. Firms that compete in market-responsive industries are unable to set prices without regard to inflation or competition. Monopolies may, however, as a practical matter, do so. However, because publicly granted monopolies aggregate so much financial power, society and government are entitled to impose restrictions and requirements that might not be justified in a competitive market.

9. This distinction is of great significance. Cable is not the first industry in which society has determined that the regulated-monopoly mode should be adopted. In such markets (electric and gas utilities, local telephone service, law), society, through its laws, confers a legal monopoly upon some entity. In return, the industry pays for its legal monopoly by submitting to rate regulation and adhering to various public interest-based controls over its operation. Cable operators enjoy many statutory and regulatory advantages; requiring them to fulfill certain civic and public interest obligations is neither unfair nor unjustified.

10. Furthermore, U.S. courts have long recognized that a monopolist might unlawfully attempt to preserve its monopoly by refusing to interconnect with smaller potential competitors who cannot even begin to compete without access to facilities controlled by the monopolist. For example, Otter Tail Power Co. v. United States, 410 U.S. 366 (1973) involved a civil action by the Antitrust Division of the Department of Justice against a defendant electric power supplier which held exclusive control over transmission lines into a rural market. The monopolist refused to interconnect its lines with those of competing suppliers, a refusal that was held to constitute a violation of the anti-

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[1] Communications Daily, Vol. 16, No. 95 (May 15, 1996), Pp. 6.

[2] [2] Copies of the Lexis reports of these two articles are attached hereto as Exhibits 1 and 2, respectively.

monopolization provisions of the Sherman Act. 15 U.S.C. § 2. Similarly, the Seventh Circuit applied essentially the same reasoning to condemn AT&T's monopolization of long distance telephone communication by refusing to interconnect competitors' long distance services to local telephone lines that were controlled by AT&T affiliates. MCI Communications Corp. v. AT&T Co., 708 F.2d 1081 (7th Cir. 1983).

11. Cases like these and others cited by HITN is its initial Comments establish that, contrary to cable industry claims, it is not an unconstitutional "taking" when a monopolist is required by law to open access to its essential resources or facilities to competitors who would otherwise be unable to compete. And where, like most MSOs who are affiliated with programming entities, the monopolist is vertically-integrated upstream or downstream with a direct competitor of an entity denied access, the antitrust considerations further serve the public interest by requiring access for those competitors on fair and reasonable terms. It is a fundamental principle of antitrust law that a practice that would be considered reasonable if engaged in by a small firm in a competitive market may be deemed unreasonable if committed by a company that is dominant in its market. See, e.g., Times-Picayune Publishing Co. v. United States, 345 U.S. 594 (1953). To the extent, therefore, that cable systems enjoy monopolies in their local market, they can be required, legally and constitutionally, to provide access upon reasonable terms and at regulated rates to smaller competitors.

C. The Commission Should Not Permit Itself to be Swayed by MSO "Ballot Box Stuffing."

12. HITN could not help but notice that numerous MSOs and other cable operators filed essentially-similar comments. Although the length and certain aspects of emphasis differed somewhat from one set of comments to another, little difference in approach or content (or in the law firm that prepared and filed the comments) was in evidence. If sheer number of pages, or repetition, were the primary criteria for weighing a rulemaking, those in favor of leased access would certainly be outnumbered. HITN is confident, however, that the Commission and its staff will recognize the multiplicity of nearly-identical comments coming from nearly the same source, and will discount size as a factor. It is, after all, no secret that the cable industry is best prepared financially to throw money and lawyers at this issue as dominant market players are always able to do. As Adirondack Television Corporation wrote in its Comments, describing cable efforts to deny or stonewall access: "cable operators have, as often as not, considered it simply a cost of doing business to roll out expensive and intimidating legal artillery in order to preserve their monopoly hegemony and deprive local, well qualified, television enterprises of must-carry and/or leased channel access." (Comments of Adirondack Television Corporation, at 1 - 2.) HITN believes this an accurate characterization of comment-overkill by the MSO and their affiliated programming entities.

III. COMMENTS OF AFFILIATED CABLE PROGRAM NETWORKS DEMONSTRATE HOSTILITY TO ADDITIONAL SOURCES OF COMPETITION AND DIVERSITY.

A. "We Don't Need Any More Diversity"

13. The Comments filed by established cable programming networks (many of which are affiliated by common ownership or otherwise with an MSO) can be concisely condensed: "More than enough diversity already exists on cable TV; don't force us to compete with any new sources, regardless of Congressional policy to the contrary." In their estimation, one supposes, the thought process is as follows: a system already that offers a few premium channels offering recent movies, several more channels offering classic (or just old) movies, a few wildlife documentaries per week, several channels of game shows, talk shows, and recycled sitcom and detective reruns, and one or two home shopping channels (plus Nickelodeon and MTV for the kids), is all the diversity that most communities need, thank you very much. If the Commission were to require any more diversity -- why, that just might threaten the secure channel position of one of US! We can't have that, can we? This approach, like that of their cousins, the MSOs, is essentially no more than an attack on the Congressional policy that underlies the proposed rules. The closer the rules come to promising successful implementation of that statutory policy, the greater these networks' complaints. The Commission should carefully scrutinize comments to determine which ones oppose the proposed formula and rules simply because the proposals might actually be effective.

B. Ownership and Control of Affiliated Programming Entities Must Be Taken into Consideration.

14. Industry comments cannot be read in a vacuum. The Commission and its staff must keep in mind while evaluating comments in this proceeding that the great majority of negative comments come from vertically-integrated industry participants who have avoided compliance with the statutory mandate for years, excluding competitors, building and leveraging market power, while reaping the benefits of monopolistic and scofflaw practices. When affiliated and other commercial program networks complain that they might be "bumped" from their channels by effective leased access policies and affordable leased access rates, what one must remember is that these networks had no entitlement to placement on what were in the first place (and should have remained) designated leased access channels. As the comments of excluded non-profit and/or low power programmers attest, these channels were only made available for non-leased use because the cable operators were ignoring the statute and stonewalling local programmers who sought access.

15. The reservation of channels for leased access is a statutory decision that has already been made by Congress. Affiliated programmers' complaints about "bumping" and other possible effects of the proposed leased access rules and proposed rate formula are properly directed to Congress, not this Commission, and do not deserve credence in this proceeding. It is not only the Commission's specific responsibility to effectuate this

statutory policy, it is also the Commission's overall responsibility to make rules and to regulate telecommunications industries in the public interest. The 1992 amendments provide guidance regarding what Congress considers the public interest to be -- here, diversity and competition. In contrast, the comments of the affiliated programmers seek just the opposite -- continued protection from competition from diverse sources of programming. Such a position should not prevail.

IV. INTERCONNECTION RULES IN OTHER TELECOMMUNICATIONS CONTEXTS OFFER PRECEDENT THAT SUPPORT THE STRONG PUBLIC INTEREST BASIS FOR PROPOSED RULES THAT REQUIRE FAVORABLE TERMS FOR INTERCONNECTION OF NON-PROFIT ENTITIES.

16. As Chairman Hundt pointed out during a recent speech before an American University/TCI News Symposium at the National Press Club[3], set-aside requirements are not uncommon in telecommunications law and regulations. Precedent exists, he noted in this talk, for imposing public interest set asides for digital broadcasting, citing first the federal law requirement for "direct broadcast satellite operators to set aside as much as 7% of their transmission capacity to educational and informational programming," as well as the Congressional mandate that cable operators set aside "a substantial number of channels for public and leased access programming. Why," Chairman Hundt asked, "should broadcasters . . . . be the only TV license holder with no meaningful and enforceable civic obligations?"

A. Access Must Be Meaningful and Enforceable.

17. HITN, like all public interest programmers, applauds the Chairman's strong expression of support for enforcement of the public interest through requiring access to all telecommunications media. HITN wishes, however, to emphasize (and in so doing, to urge the Commission to stand firm on this point) that set asides to permit such educational and informational access, in cable as in other media, will only be effective if such access is, in the Chairman's words, "meaningful and enforceable." HITN respectfully reminds the Commission that a policy which throws not-for-profit educational, informational, or minority programmers into the same market as for-profit entities such as shop-at-home channels, enshrining a sort of Darwinian faith in competition at all costs, will not produce meaningful access for such public interest programmers, who do not have the financial resources to compete if access rates are left entirely to market forces. As CME and its joint comment partners (including, most significantly, the ONLY consumer representation in this proceeding, the Consumer Federation of America) point out, "preferential access for non-profit programmers is essential" to effectuate the statutory intent of diversity. (CME, et al. Comments, Summary.)

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[3] Speech by Reed E. Hundt, Chairman, Federal Communications Commission, before the American University/TCI News Symposium. National Press Club. Washington, D.C., May 23, 1996.

18. Similarly, for the Commission to weaken its enforcement procedures at the same time it tries to limit the ability of cable operators to reap monopoly profits from leased access users is to invite evasion and outright violations of its new rules. The Chairman's reminder of the necessary linkage of "**meaningful**" access with "**enforceable**" access must not be ignored in this rulemaking proceeding.

B. Public Broadcasting Interconnection Policies Provide Relevant Precedent.

19. In its original Comments, HITN explained its support for a special rulemaking focus on not-for-profit access in part by stressing the obvious analogy between the such a policy and the public broadcasting interconnection policy upheld by the Commission in 1969. (HITN Comments, at 19-20). HITN was pleased, therefore, to discover that the Association of American's Public Television Stations ("APTS") and the Public Broadcasting Service ("PBS"), entities with an institutional history and thorough understanding of those early policies, have filed comments which confirmed this public interest basis. The Commission's jurisdiction and obligation to promote the public interest forms a solid basis to justify FCC intervention to promote interconnections which will promote the public interest and effectuate Congressional expressions of public telecommunications policy. For these reasons, HITN adopts the Comments filed by PBS and APTS, and strongly urges the Commission to look to the longstanding law, rules, and policies that promote free or low-cost interconnections for non-profit, public, and/or educational programming in the public interest as providing solid precedent for the adoption of such policies with respect to non-profit programmers in this rulemaking proceeding.

C. The "PEG" Set Aside Does Not Provide Meaningful Access for Most Non-Profits in Most Cable Markets.

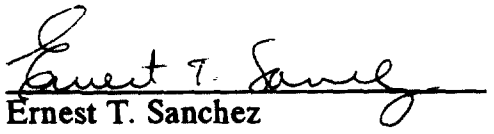
20. Although HITN agrees with and supports the greater part of the Comments filed by the Community Broadcasters Association ("CBA"), it must register its disagreement with one point. CBA has taken the position that non-profit and other noncommercial entities should not be permitted lower rates or a non-profit set-aside. The primary reason offered by CBA for this position is that non-profits have access through PEG channels and "should not have preferred access to two groups of set-aside channels." However, as was pointed out by CME, as few as 16.5 % of cable systems (perhaps as few as 10%) offer any public access at all, not even to say meaningful and effective PEG access (CME, et al., Comments, at 21-22). As CME notes, and many non-profits have experienced, many PEG channels are simply not available to any entity other than government or educational system sources. HITN is in the position described by CME -- its programming scope is potentially national, not merely local, so that leased access, rather than public access, would provide the most meaningful and effective means for distributing its programming. HITN urges the Commission to pay most serious attention to the empirical data and the public-interest and consumer-focussed reasoning that informs the Comments of CME, the Consumer Federation, and their co-commenters.

D. Affordable Leased Access Increases the Value to Consumers and Local Communities of LPTV and ITFS Technology.

As the LPTV commenters and their trade association CBA pointed out, they are FCC licensees to their communities of operation but often are inaccessible to most viewers in those communities. The same is true of ITFS educational licensees such as HITN. Often, lack of cable access has rendered most households in their respective communities of license impossible to reach. People simply do not have practical or effective access to programming that could be made available to them if such entities had a means of obtaining cable access on reasonable terms. If the Commission's rulemaking results in increasing access, as a practical matter, to cable channels, the policies underlying LPTV and ITFS licensure will also be furthered at the same time.

Respectfully submitted,

Hispanic Information and Telecommunications Network, Inc.

By: 
Ernest T. Sanchez

Dated: May 31, 1996

Communications Daily, May 15, 1996

EX 1

May 15, 1996, Wednesday

SECTION: Vol. 16, No. 95; Pg. 6

LENGTH:

BODY:

Cable rates have increased much faster than inflation, according to Labor Dept. statistics released Tues. Bureau of Labor Statistics said cable rates were up 0.9% in April, vs. 0.4% growth in Consumer Price Index. Rate increase for 12 months ending in April was 4.6%, vs. 2.9% for overall inflation.

2ND STORY of Level 1 printed in FULL format.

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The Washington Post

May 18, 1996, Saturday, Final Edition

SECTION: A SECTION; Pg. A01

LENGTH: 918 words

HEADLINE: Cable TV Rates Going Up Sharply; Local Increases Outpacing Inflation Despite 1992 Law

BYLINE: Paul Farhi, Washington Post Staff Writer

BODY:

Despite federal efforts to control them, cable television prices are rising sharply again, with increases throughout the Washington area running more than double or triple the current rate of inflation.

Viewers in the District, for example, will see their monthly bills for service jump 14 percent starting next month. In Leesburg, the price is going up 15 percent, according to a Washington Post survey.

Other counties are showing increases in the 7 percent to 8 percent range, well in excess of the general inflation rate of just under 3 percent during the past 12 months.

Responding to spiraling cable prices in 1992, Congress passed a law designed to restrain rates. The Federal Communications Commission responded with two sets of regulations that the agency said would cut customers' service charges by as much as 17 percent and save $ 3 billion overall. The FCC also hired about 160 new employees to administer the regulations.

By all industry measures, the regulatory effort led to consumer savings in service charges or equipment prices during the past three years.

Prices now appear to be rising at about the same rate that prompted Congress and the FCC to intervene in the first place. This time, the FCC says it sees no reason to step in.

The District's 101,000 cable households will see one of the steepest hikes, with monthly charges rising $ 3.50, to $ 28.25 for 55 channels of service. The District's cable system is principally owned by Tele-Communications Inc. (TCI), the nation's largest cable company.

Nationwide, TCI is increasing its rates from $ 2 to $ 4 per month -- more than 10 percent on average -- in about 80 percent of its systems, the company said. The nation's second-largest cable company, Time Warner Inc., raised its prices about 10 percent for its 11.7 million customers in January, said spokesman Mike Luftman. Between them, Time Warner and TCI serve 42 percent of all homes with cable in the United States.

Because different companies hold the cable franchise in each county, increases vary widely. Three local operators in The Post's survey, for instance, have not changed their prices or have raised them only slightly in the past

year. In Fairfax County, Media General Corp., owner of the largest system in the region, raised its monthly price 4.3 percent, or $ 1.30 per month, among the lowest increases in the area in percentage terms.

"To be honest, I don't know how [other companies] get by with [bigger] price increases," said Thomas Waldrop, president of Media General's cable division. "It makes no sense."

Cable companies and the FCC say the increases are justified under current regulations. The rules permit cable operators to raise prices to account for higher operating costs, additional channels and inflation (the FCC calculates inflation at 2.61 percent annually). Cable companies are regulated because virtually all of them hold monopolies in their franchise areas.

TCI said it has not raised its prices since early 1995. It said its forthcoming price hike reflects accumulated costs and inflation over three years -- this year, last year and next year, the company said. Inflation during these three years is estimated at 8.2 percent, according to the company. It blamed the rest of the increase on rising costs.

"These increases aren't the fault of the FCC, they're not the fault of Congress or the cable industry," said Bob Thomson, TCI's chief spokesman and lobbyist. "If you're looking for a villain, it's escalating costs." Added Thomson, "It's regretable that our industry has much higher costs than the rest of the economy."

The FCC has no independent data on industry costs, and doesn't verify cost claims of companies. Meredith Jones, chief of the FCC's cable services bureau, said regulators rely on certified statements from cable companies about their costs when the companies submit their rate schedules.

Even with new rate increases, Jones said, prices still reflect Congress's mandate to the FCC in 1992. Lawmakers that year directed the FCC to set rates at a level simulating prices in a competitive market.

Under a new federal law enacted in February, federal supervision of cable prices will end beginning in March 1999.

Several observers were critical of the increases, and of the FCC processes that led to them.

"It's absolutely outrageous in a rate-regulated environment that the FCC would allow cable companies to recover costs in advance of actually incurring them. It's unheard of," said Nicholas P. Miller, a Washington attorney whose firm represents city and county governments in cable matters. "It's a terrific windfall for the industry."

Miller also criticized the FCC for not seeking data on cable companies' costs, and for failing to punish companies that refuse to disclose this data to local regulatory authorities.

The size of recent price hikes appears to indicate that the cable industry isn't concerned about competition from phone companies or satellite TV providers, said Gene Kimmelman, co-director of Consumers Union, a Washington-based organization.

The Washington Post, May 18, 1996

Cable companies lobbied successfully last year for deregulation of their rates, saying in part that competition was right around the corner.

Although Kimmelman was critical of the FCC's supervision, he said, "Ultimately, prices don't go up because of regulations or regulators, they go up because cable companies believe they can get away with it. There's no competition to restrain them. Period."

GRAPHIC: Chart, The Washington Post, CABLE COMPARISON A LOOK AT CHANGING CABLE TELEVISION RATES IN THE REGION Monthly Monthly Percent Service Cost* Service Cost* Increase June 1996 June 1995 In Owner Subcribers No. of Channels No. of Channels Cost Alexandria 40,655 $23.33 $21.53 8.4% (Jones Communications) 40 40 Arlington County 56,661 $26.50 $26.05 1.7 (SBC Corp.) 50 48 Calvert County 17,000 $28.04 $26.63 5.3 (Jones Communications) 41 38 Charles County 23,700 $26.33 $26.33 N.A. (Jones Communications) 41 41 District 101,000 $28.25 $24.75 14.1 (Tele-Communications Inc.) 55 54 Fairfax 223,500 $31.23 $29.93 4.3 (Media General) 94 94 Frederick County 48,860 $25.23 $23.48 7.5 (Great Southern 54 54 Printing and Manufacturing) Howard County (east) 51,000 $26.51 $24.71 7.3 (Comcast Corp.) 52 46 Howard County (west) 3,500 $41.95 $38.95 7.7 (Mid-Atlantic Cable) 53 51 Leesburg 7,000 $31.83 $27.59 15.4 (Loudoun Telecommunications) 58 56 Loudoun County 19,500 $33.57 $33.26 N.A. (Loudoun Telecommunications) 58 58 Montgomery County 200,117 $28.55 $26.5[illegible] 7

LANGUAGE: ENGLISH

LOAD-DATE: May 18, 1996May 18, 1996